

Union Calendar No. 385

109TH CONGRESS
2^D SESSION

H. R. 5450

[Report No. 109–545, Part I]

To provide for the National Oceanic and Atmospheric Administration, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2006

Mr. EHLERS (for himself, Mr. BOEHLERT, and Mr. GILCHREST) introduced the following bill; which was referred to the Committee on Science, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE 29, 2006

Reported from the Committee on Science with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 29, 2006

Referral to the Committee on Resources extended for a period ending not later than September 11, 2006

SEPTEMBER 11, 2006

Additional sponsor: Mr. CALVERT

SEPTEMBER 11, 2006

Committee on Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To provide for the National Oceanic and Atmospheric Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “National Oceanic and*
5 *Atmospheric Administration Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *The term “Administration” means the Na-*
9 *tional Oceanic and Atmospheric Administration.*

10 (2) *The term “Administrator” means the Admin-*
11 *istrator of the National Oceanic and Atmospheric Ad-*
12 *ministration.*

13 (3) *The term “Secretary” means the Secretary of*
14 *Commerce.*

15 **SEC. 3. NATIONAL OCEANIC AND ATMOSPHERIC ADMINIS-**
16 **TRATION.**

17 (a) *IN GENERAL.*—*There shall be in the Department*
18 *of Commerce an agency known as the National Oceanic and*
19 *Atmospheric Administration.*

1 (b) *MISSION.*—*The mission of the Administration is*
2 *to understand the systems of the Earth’s oceans and atmos-*
3 *phere and predict changes in the Earth’s oceans and atmos-*
4 *phere and the effects of such changes on the land environ-*
5 *ment, to conserve and manage coastal, ocean, and Great*
6 *Lakes ecosystems to meet national economic, social, and en-*
7 *vironmental needs, and to educate the public about these*
8 *topics.*

9 (c) *FUNCTIONS.*—*The functions of the Administration*
10 *shall include—*

11 (1) *collecting, through observation and other*
12 *means, communicating, analyzing, processing, and*
13 *disseminating comprehensive scientific data and in-*
14 *formation about weather and climate, solar and geo-*
15 *physical events on the Sun and in the space environ-*
16 *ment, and about the coasts, oceans, Great Lakes,*
17 *upper reaches of estuaries, and hydrologic systems;*

18 (2) *operating and maintaining a system for the*
19 *storage, retrieval, and dissemination of data relating*
20 *to weather and climate, solar and geophysical events*
21 *on the Sun and in the space environment, and about*
22 *the coasts, oceans, Great Lakes, upper reaches of estu-*
23 *aries, and hydrologic systems;*

1 (3) using observational data and technologies de-
2 veloped by other Federal agencies to improve the Ad-
3 ministration's operations;

4 (4) conducting and supporting basic and applied
5 research, development, and technology transfer as
6 may be necessary to carry out the mission described
7 in subsection (b);

8 (5) issuing weather, water, climate, space weath-
9 er, tsunami, and other forecasts and warnings related
10 to Earth's oceans and atmosphere;

11 (6) coordinating efforts of Federal agencies with
12 respect to meteorological services;

13 (7) understanding the science of Earth's climate
14 and related systems, and undertaking research and
15 development to enhance society's ability to plan for
16 and respond to climate variability and change;

17 (8) protecting, restoring, and managing the use
18 of, the coasts, oceans, and Great Lakes through eco-
19 system-based research, development, demonstration,
20 and management;

21 (9) administering public outreach and education
22 programs and services to increase scientific and envi-
23 ronmental literacy about weather and climate, solar
24 and geophysical events on the Sun and in the space

1 *environment, and the coasts, oceans, Great Lakes,*
 2 *upper reaches of estuaries, and hydrologic systems;*

3 *(10) providing, as appropriate and in coopera-*
 4 *tion with the Secretary of State, representation at all*
 5 *international meetings and conferences relating to the*
 6 *mission of the Administration, including meteorolog-*
 7 *ical, climate, and Earth and ocean observing issues;*

8 *(11) any other function assigned to the Adminis-*
 9 *tration by law; and*

10 *(12) such other functions as are necessary to ac-*
 11 *complish the mission described in subsection (b).*

12 **SEC. 4. ADMINISTRATION LEADERSHIP.**

13 *(a) ADMINISTRATOR.—*

14 *(1) IN GENERAL.—There shall be, as the Admin-*
 15 *istrator of the Administration, an Under Secretary of*
 16 *Commerce for Oceans and Atmosphere. The Adminis-*
 17 *trator shall be appointed by the President, by and*
 18 *with the advice and consent of the Senate. The Ad-*
 19 *ministrator shall be paid at the rate of basic pay for*
 20 *level III of the Executive Schedule.*

21 *(2) FUNCTIONS.—The Administrator shall be re-*
 22 *sponsible for—*

23 *(A) general management;*

24 *(B) policy development and guidance;*

1 (C) budget formulation, guidance, and exe-
2 cution;

3 (D) serving as the Department of Commerce
4 official for all ocean and atmosphere issues with
5 other elements of the Department of Commerce
6 and with other Federal agencies, State, tribal,
7 and local governments, and the public; and

8 (E) such other duties with respect to the Ad-
9 ministration as the Secretary may prescribe.

10 (3) *DELEGATION OF AUTHORITY.*—The Adminis-
11 trator may, except as otherwise prohibited by law—

12 (A) delegate any functions, powers, or du-
13 ties of the Administrator to such officers and em-
14 ployees of the Administration as the Adminis-
15 trator may designate; and

16 (B) authorize such successive redelegations
17 of such functions, powers, or duties within the
18 Administration as the Administrator considers
19 necessary or appropriate.

20 (4) *AUTHORITIES.*—

21 (A) *IN GENERAL.*—As may be necessary or
22 proper to carry out the Administration’s func-
23 tions under this Act or as otherwise provided by
24 law, the Administrator may—

25 (i) promulgate rules and regulations;

1 (ii) enter into and perform contracts,
2 leases, grants, and cooperative agreements
3 with Federal agencies, State and local gov-
4 ernments, Indian tribes, international orga-
5 nizations, foreign governments, educational
6 institutions, nonprofit organizations, and
7 commercial organizations;

8 (iii) use, with their consent, and with
9 or without reimbursement, the services,
10 equipment, personnel, and facilities of other
11 departments, agencies, and instrumental-
12 ities of the Federal Government; and

13 (iv) conduct education and outreach in
14 direct support of the mission described in
15 section 3(b).

16 (B) *EXCEPTION.*—The authorities conferred
17 on the Administrator by this paragraph do not
18 include the authority to contract for services that
19 are an inherently governmental function as de-
20 fined in section 5 of the Federal Activities Inven-
21 tory Reform Act of 1998 (31 U.S.C. 501 note).

22 (b) *ASSISTANT SECRETARY FOR OCEANS AND ATMOS-*
23 *PHERE.*—

24 (1) *IN GENERAL.*—There shall be, as Deputy Ad-
25 ministrator of the Administration, an Assistant Sec-

1 *retary of Commerce for Oceans and Atmosphere. The*
2 *Assistant Secretary shall be appointed by the Presi-*
3 *dent, by and with the advice and consent of the Sen-*
4 *ate. The Assistant Secretary shall be the Administra-*
5 *tor's first assistant for purposes of subchapter III of*
6 *chapter 33 of title 5, United States Code. The Assist-*
7 *ant Secretary shall be paid at the rate of basic pay*
8 *for level IV of the Executive Schedule.*

9 (2) *FUNCTIONS.—The Assistant Secretary shall*
10 *perform such functions and exercise such powers as*
11 *the Administrator may prescribe and shall act as Ad-*
12 *ministrator during the absence or disability of the*
13 *Administrator or in the event of a vacancy in the of-*
14 *fice of Administrator.*

15 (c) *DEPUTY UNDER SECRETARY FOR OCEANS AND AT-*
16 *MOSPHERE.—*

17 (1) *IN GENERAL.—There shall, be as the Chief*
18 *Operating Officer of the Administration, a Deputy*
19 *Under Secretary of Commerce for Oceans and Atmos-*
20 *phere. The Deputy Under Secretary shall be ap-*
21 *pointed by the Secretary. The position of Deputy*
22 *Under Secretary shall be a Senior Executive Service*
23 *position authorized under section 3133 of title 5,*
24 *United States Code.*

1 (2) *FUNCTIONS.—The Deputy Under Sec-*
2 *retary—*

3 *(A) shall ensure the timely and effective im-*
4 *plementation of Administration policies and ob-*
5 *jectives;*

6 *(B) shall be responsible for all aspects of the*
7 *Administration’s operations and management,*
8 *including budget, financial operations, informa-*
9 *tion services, facilities, human resources, pro-*
10 *curements, and associated services;*

11 *(C) in the absence or disability of the As-*
12 *stant Secretary, or in the event of a vacancy*
13 *in such position, shall act in that position; and*

14 *(D) shall perform such other duties as the*
15 *Administrator shall prescribe.*

16 (d) *DEPUTY ASSISTANT SECRETARY FOR SCIENCE AND*
17 *EDUCATION.—*

18 (1) *IN GENERAL.—There shall be in the Admin-*
19 *istration a Deputy Assistant Secretary for Science*
20 *and Education who shall coordinate and oversee the*
21 *science and education activities of the Administration*
22 *and their application to Administration decisions*
23 *and operations. The Deputy Assistant Secretary for*
24 *Science and Education shall be appointed by the Sec-*
25 *retary. The position of Deputy Assistant Secretary for*

1 *Science and Education shall be a Senior Executive*
2 *Service career reserved position as defined in section*
3 *3132(a)(8) of title 5, United States Code.*

4 (2) *FUNCTIONS.—The Deputy Assistant Sec-*
5 *retary for Science and Education shall—*

6 (A) *coordinate research and development ac-*
7 *tivities across the Administration;*

8 (B) *review the Administration’s annual*
9 *budget to ensure that funding for research and*
10 *development is adequate, properly focused, and*
11 *carried out by the appropriate entities across the*
12 *Administration;*

13 (C) *advise the Administrator on how re-*
14 *search results can be applied to operational use;*

15 (D) *advise the Administrator regarding*
16 *science issues and their relationship to Adminis-*
17 *tration policies, procedures, and decisions;*

18 (E) *participate in developing the Adminis-*
19 *tration’s strategic plans and policies and review*
20 *the science and education aspects of those plans*
21 *and policies;*

22 (F) *serve as liaison to the nongovernmental*
23 *science community;*

1 (G) develop and oversee guidelines for peer
2 review of research sponsored or conducted by the
3 Administration;

4 (H) oversee implementation of the strategic
5 plan for research and development required
6 under section 9(b);

7 (I) oversee management of laboratories in
8 the Administration;

9 (J) oversee the research and education pro-
10 grams of the Administration; and

11 (K) perform such other duties as the Ad-
12 ministrator shall prescribe.

13 (3) *QUALIFICATIONS.*—An individual appointed
14 under paragraph (1) shall be a person who has an
15 outstanding science and education background, in-
16 cluding research accomplishments, scientific reputa-
17 tion, and public policy experience.

18 (4) *CONSULTATION.*—Before appointing an indi-
19 vidual under paragraph (1), the Secretary shall con-
20 sult with the National Academy of Sciences, the
21 Science Advisory Board of the Administration, and
22 other appropriate scientific organizations.

23 (e) *DEPUTY ASSISTANT SECRETARIES.*—There may be
24 in the Administration no more than two additional Deputy
25 Assistant Secretaries whose duties may be designated by the

1 *Administrator. The Deputy Assistant Secretaries shall be*
 2 *appointed by the Secretary. The positions of Deputy Assist-*
 3 *ant Secretaries shall be Senior Executive Service positions*
 4 *authorized under section 3133 of title 5, United States Code.*

5 (f) *GENERAL COUNSEL.—*

6 (1) *IN GENERAL.—There shall be in the Admin-*
 7 *istration a General Counsel. The General Counsel*
 8 *shall be appointed by the Secretary. The General*
 9 *Counsel shall be paid at the rate of basic pay for level*
 10 *V of the Executive Schedule.*

11 (2) *FUNCTIONS.—The General Counsel—*

12 (A) *shall serve as the chief legal officer of*
 13 *the Administration for all legal matters that*
 14 *arise in connection with the conduct of the func-*
 15 *tions of the Administration; and*

16 (B) *shall perform such other functions and*
 17 *exercise such powers as the Administrator may*
 18 *prescribe.*

19 (g) *CONTINUATION OF SERVICE.—Any individual*
 20 *serving on the effective date of this Act in a position pro-*
 21 *vided for in this Act may continue to serve in that position*
 22 *until a successor is appointed under this Act. Nothing in*
 23 *this Act shall be construed to require the appointment of*
 24 *a successor under this Act sooner than would have been re-*

1 *quired under law as in effect before the effective date of this*
2 *Act.*

3 **SEC. 5. NATIONAL WEATHER SERVICE.**

4 *(a) IN GENERAL.—The Secretary shall maintain with-*
5 *in the Administration the National Weather Service.*

6 *(b) MISSION.—The mission of the National Weather*
7 *Service is to provide weather, water, climate, tsunami, and*
8 *space weather forecasts and warnings for the United States,*
9 *its territories, adjacent waters, and ocean areas for the pro-*
10 *tection of life and property and the enhancement of the na-*
11 *tional economy. In carrying out the mission of the National*
12 *Weather Service, the Administrator shall ensure that the*
13 *National Weather Service—*

14 *(1) provides timely and accurate weather, water,*
15 *climate, tsunami, and space weather forecasts; and*

16 *(2) provides timely and accurate warnings of*
17 *natural hazards related to weather, water, climate,*
18 *and tsunamis, and of space weather hazards.*

19 *(c) FUNCTIONS.—The functions of the National Weath-*
20 *er Service shall include—*

21 *(1) maintaining a network of local weather fore-*
22 *cast offices;*

23 *(2) maintaining a network of observation sys-*
24 *tems to collect weather and climate data;*

1 (3) *operating national centers to deliver guid-*
 2 *ance, forecasts, warnings, and analysis about weather,*
 3 *water, climate, tsunami, and space weather phe-*
 4 *nomena for the Administration and the public;*

5 (4) *providing information to Federal agencies*
 6 *and other organizations responsible for emergency*
 7 *preparedness and response as required by law;*

8 (5) *conducting and supporting applied research*
 9 *to facilitate the rapid incorporation of weather and*
 10 *climate science advances into operational tools; and*

11 (6) *other functions to serve the mission of the*
 12 *National Weather Service described in subsection (b).*

13 **SEC. 6. OPERATIONS AND SERVICES.**

14 (a) *IN GENERAL.*—*The Secretary shall maintain with-*
 15 *in the Administration programs to support efforts, on a*
 16 *continuing basis, to collect data and provide information*
 17 *and products regarding satellites, observations, and coastal,*
 18 *ocean and Great Lakes information.*

19 (b) *FUNCTIONS.*—*To accomplish the mission described*
 20 *in section 3(b), and in addition to the functions described*
 21 *in section 3(c), the operations and service aspects of the Ad-*
 22 *ministration shall include—*

23 (1) *acquiring, managing, and operating coastal,*
 24 *ocean, and Great Lakes observing systems;*

1 (2) *contributing to the operation of a global*
2 *Earth-observing system;*

3 (3) *integrating Administration remote sensing*
4 *and in situ assets that provide critical data needed*
5 *to support the mission of the Administration, and*
6 *providing that data to decisionmakers and the public;*

7 (4) *developing, acquiring, and managing oper-*
8 *ational environmental satellite programs and associ-*
9 *ated ground control and data acquisition and deliv-*
10 *ery facilities to support the mission of the Adminis-*
11 *tration;*

12 (5) *managing and distributing atmospheric, geo-*
13 *physical, and marine data and data products for the*
14 *Administration through national environmental data*
15 *centers;*

16 (6) *providing for long-term stewardship of envi-*
17 *ronmental data, products, and information via data*
18 *processing, storage, reanalysis, reprocessing, and ar-*
19 *chive facilities;*

20 (7) *issuing licenses for private remote sensing*
21 *space systems under the Land Remote Sensing Policy*
22 *Act of 1992;*

23 (8) *administering a national water level observa-*
24 *tion network, which shall include monitoring of the*
25 *Great Lakes;*

1 (9) *providing charts and other information for*
2 *safe navigation of the oceans and inland waters, as*
3 *provided by law;*

4 (10) *maintaining a fleet of ships and aircraft to*
5 *support the mission of the Administration; and*

6 (11) *such other operations and services functions*
7 *to serve the mission of the Administration as the Ad-*
8 *ministrator may prescribe.*

9 **SEC. 7. RESEARCH AND EDUCATION.**

10 (a) *IN GENERAL.*—*The Secretary shall maintain with-*
11 *in the Administration programs to conduct and support re-*
12 *search and education and the development of technologies*
13 *relating to weather, climate, and the coasts, oceans, and*
14 *Great Lakes.*

15 (b) *FUNCTIONS.*—*To accomplish the mission described*
16 *in section 3(b), and in addition to the functions described*
17 *in section 3(c), the research and education aspects of the*
18 *Administration shall include—*

19 (1) *conducting and supporting research and de-*
20 *velopment to improve the Administration’s capabili-*
21 *ties to collect, through observation and otherwise,*
22 *communicate, analyze, process, and disseminate com-*
23 *prehensive scientific data and information about*
24 *weather, climate, and the coasts, oceans, and Great*
25 *Lakes;*

1 (2) *improving ecological prediction and manage-*
2 *ment capabilities through ecosystem-based research*
3 *and development;*

4 (3) *contributing information on the Earth's cli-*
5 *mate and related systems, obtained through research*
6 *and observation, that addresses questions confronting*
7 *policymakers, resources managers, and other users;*

8 (4) *reducing uncertainty in projections of how*
9 *the Earth's climate and related systems may change*
10 *in the future;*

11 (5) *fostering the public's ability to understand*
12 *and integrate scientific information into consider-*
13 *ations of national environmental issues through edu-*
14 *cation and public outreach activities;*

15 (6) *administering the National Sea Grant Col-*
16 *lege Program Act;*

17 (7) *conducting and supporting research and de-*
18 *velopment of technology for exploration of the oceans;*

19 (8) *maintaining a system of laboratories to per-*
20 *form the functions described in this subsection;*

21 (9) *supporting extramural peer-reviewed com-*
22 *petitive grant programs to assist the Administration*
23 *in performing the functions described in this sub-*
24 *section; and*

1 (10) *such other research, development, education,*
 2 *and outreach functions to serve the mission of the Ad-*
 3 *ministration as the Administrator may prescribe.*

4 **SEC. 8. SCIENCE ADVISORY BOARD.**

5 (a) *IN GENERAL.*—*There shall be within the Adminis-*
 6 *tration a Science Advisory Board, which shall provide such*
 7 *scientific advice as may be requested by the Administrator,*
 8 *the Committee on Commerce, Science, and Transportation*
 9 *of the Senate, or the Committee on Science or on Resources*
 10 *of the House of Representatives.*

11 (b) *PURPOSE.*—*The purpose of the Science Advisory*
 12 *Board is to advise the Administrator and Congress on long-*
 13 *range and short-range strategies for research, education,*
 14 *and the application of science to resource management and*
 15 *environmental assessment and prediction.*

16 (c) *MEMBERS.*—

17 (1) *IN GENERAL.*—*The Science Advisory Board*
 18 *shall be composed of at least 15 members appointed*
 19 *by the Administrator. Each member of the Board*
 20 *shall be qualified by education, training, and experi-*
 21 *ence to evaluate scientific and technical information*
 22 *on matters referred to the Board under this section.*

23 (2) *TERMS OF SERVICE.*—*Members shall be ap-*
 24 *pointed for 3-year terms, renewable once, and shall*
 25 *serve at the discretion of the Administrator. An indi-*

1 *vidual serving a term as a member of the Science Ad-*
2 *visory Board on the date of enactment of this Act*
3 *may complete that term, and may be reappointed*
4 *once for another term of 3 years unless the term being*
5 *served on such date of enactment is the second term*
6 *served by that individual. Vacancy appointments*
7 *shall be for the remainder of the unexpired term of the*
8 *vacancy, and an individual so appointed may subse-*
9 *quently be appointed for 2 full 3-year terms if the re-*
10 *mainder of the unexpired term is less than one year.*

11 (3) *CHAIRPERSON.—The Administrator shall*
12 *designate a chairperson from among the members of*
13 *the Board.*

14 (4) *APPOINTMENT.—Members of the Science Ad-*
15 *visory Board shall be appointed as special Govern-*
16 *ment employees, within the meaning given such term*
17 *in section 202(a) of title 18, United States Code.*

18 (d) *ADMINISTRATIVE PROVISIONS.—*

19 (1) *REPORTING.—The Science Advisory Board*
20 *shall report to the Administrator and the appropriate*
21 *requesting party.*

22 (2) *ADMINISTRATIVE SUPPORT.—The Adminis-*
23 *trator shall provide administrative support to the*
24 *Science Advisory Board.*

1 (3) *MEETINGS.*—*The Science Advisory Board*
2 *shall meet at least twice each year, and at other times*
3 *at the call of the Administrator or the Chairperson.*

4 (4) *COMPENSATION AND EXPENSES.*—*A member*
5 *of the Science Advisory Board shall not be com-*
6 *pensated for service on such board, but may be al-*
7 *lowed travel expenses, including per diem in lieu of*
8 *subsistence, in accordance with subchapter I of chap-*
9 *ter 57 of title 5, United States Code.*

10 (5) *SUBCOMMITTEES.*—*The Science Advisory*
11 *Board may establish such subcommittees of its mem-*
12 *bers as may be necessary. The Science Advisory*
13 *Board may establish task forces and working groups*
14 *consisting of Board members and outside experts as*
15 *may be necessary.*

16 (e) *EXPIRATION.*—*Section 14 of the Federal Advisory*
17 *Committee Act (5 U.S.C. App.) shall not apply to the*
18 *Science Advisory Board.*

19 **SEC. 9. REPORTS.**

20 (a) *REPORT ON DATA MANAGEMENT, ARCHIVAL, AND*
21 *DISTRIBUTION.*—

22 (1) *CONTENTS.*—*Not later than 1 year after the*
23 *date of enactment of this Act, and once every 5 years*
24 *thereafter, the Administrator shall do the following:*

1 (A) *Enter into an arrangement with the*
2 *National Academy of Sciences to review the envi-*
3 *ronmental data and information systems of the*
4 *Administration and to provide recommendations*
5 *to address any inadequacies identified by the re-*
6 *view. The review shall assess the adequacy of the*
7 *environmental data and information systems of*
8 *the Administration to—*

9 (i) *provide adequate capacity to man-*
10 *age, archive and disseminate environmental*
11 *information collected and processed, or ex-*
12 *pected to be collected and processed, by the*
13 *Administration, including data gathered by*
14 *other agencies that is processed or stored by*
15 *the Administration;*

16 (ii) *establish, develop, and maintain*
17 *information bases, including necessary*
18 *management systems, which will provide for*
19 *consistent, efficient, and compatible transfer*
20 *and use of data;*

21 (iii) *develop effective interfaces among*
22 *the environmental data and information*
23 *systems of the Administration and other ap-*
24 *propriate departments and agencies;*

1 (iv) develop and use nationally accept-
2 ed formats and standards for data collected
3 by various national and international
4 sources;

5 (v) integrate and interpret data from
6 different sources to produce information
7 that can be used by decisionmakers in devel-
8 oping policies that effectively respond to na-
9 tional and global environmental concerns;
10 and

11 (vi) reanalyze and reprocess the
12 archived data as better science is developed
13 to integrate diverse data sources.

14 (B) Develop a strategic plan, with respect to
15 the environmental data and information systems
16 of the Administration, to—

17 (i) respond to each of the recommenda-
18 tions in the review conducted under sub-
19 paragraph (A);

20 (ii) set forth modernization and im-
21 provement objectives for an integrated na-
22 tional environmental data access and ar-
23 chive system for the 10-year period begin-
24 ning with the year in which the plan is
25 transmitted, including facility requirements

1 *and critical new technology components*
2 *that would be necessary to meet the objec-*
3 *tives set forth;*

4 *(iii) propose specific Administration*
5 *programs and activities for implementing*
6 *the plan;*

7 *(iv) identify the data and information*
8 *management, reanalysis, reprocessing, ar-*
9 *chival, and distribution responsibilities of*
10 *the Administration with respect to other*
11 *Federal departments and agencies and*
12 *international organizations; and*

13 *(v) provide an implementation sched-*
14 *ule and estimate funding levels necessary to*
15 *achieve modernization and improvement ob-*
16 *jectives.*

17 (2) *TRANSMITTAL TO CONGRESS.—Not later than*
18 *18 months after the date of enactment of this Act, the*
19 *Administrator shall transmit to the Committee on*
20 *Commerce, Science, and Transportation of the Senate*
21 *and the Committee on Science of the House of Rep-*
22 *resentatives the initial review and strategic plan de-*
23 *veloped under paragraph (1). Subsequent reviews and*
24 *strategic plans developed under paragraph (1) shall*

1 also be transmitted to those committees upon comple-
2 tion.

3 (b) *STRATEGIC PLAN FOR RESEARCH AND DEVELOP-*
4 *MENT.*—

5 (1) *CONTENTS.*—Not later than 1 year after the
6 date of enactment of this Act, and once every 5 years
7 thereafter, the Administrator shall develop a strategic
8 plan for research and development at the Administra-
9 tion. The plan shall include—

10 (A) an assessment of the science and tech-
11 nology needs of the Administration based on the
12 Administration's operational requirements and
13 on input provided by external stakeholders at the
14 national, regional, State, and local levels; and

15 (B) a strategic plan that assigns specific
16 programs within the administration the respon-
17 sibility to meet each need identified under sub-
18 paragraph (A) and that describes the extent to
19 which each need identified in subparagraph (A)
20 will be addressed through—

21 (i) intramural research;

22 (ii) extramural, peer-reviewed, com-
23 petitive grant programs; and

24 (iii) work done in cooperation with
25 other Federal agencies.

1 (2) *NATIONAL ACADEMY OF SCIENCES REVIEW.*—

2 *The Administrator shall enter into an arrangement*
3 *with the National Academy of Sciences for a review*
4 *of the plan developed under paragraph (1).*

5 (3) *TRANSMITTAL TO CONGRESS.*—*Not later than*

6 *18 months after the date of enactment of this Act, the*
7 *Administrator shall transmit to the Committee on*
8 *Commerce, Science, and Transportation of the Senate*
9 *and the Committee on Science of the House of Rep-*
10 *resentatives the initial strategic plan developed under*
11 *paragraph (1) and the review prepared pursuant to*
12 *paragraph (2). Subsequent strategic plans developed*
13 *under paragraph (1) shall also be transmitted to those*
14 *committees upon completion.*

15 **SEC. 10. PUBLIC-PRIVATE PARTNERSHIPS.**

16 *Not less than once every 5 years, the Secretary shall*
17 *develop and submit to Congress a policy that defines proc-*
18 *esses for making decisions about the roles of the Administra-*
19 *tion, the private sector, and the academic community in*
20 *providing environmental information, products, tech-*
21 *nologies, and services. The first such submission shall be*
22 *completed not less than 3 years after the date of enactment*
23 *of this Act. At least 90 days before each submission of the*
24 *policy to Congress, the Secretary shall publish the policy*
25 *in the Federal Register for a public comment period of not*

1 *less than 60 days. Nothing in this section shall be construed*
2 *to require changes in the policy in effect on the date of en-*
3 *actment of this Act.*

4 **SEC. 11. EFFECT OF REORGANIZATION PLAN.**

5 *Reorganization Plan No. 4 of 1970 shall have no fur-*
6 *ther force and effect.*

7 **SEC. 12. SAVINGS PROVISION.**

8 *All rules and regulations, determinations, standards,*
9 *contracts, including collective bargaining agreements, cer-*
10 *tifications, authorizations, appointments, delegations, re-*
11 *sults and findings of investigations, and other actions duly*
12 *issued, made, or taken by or pursuant to or under the au-*
13 *thority of any statute or executive order which resulted in*
14 *the assignment of functions or activities to the Secretary,*
15 *the Department of Commerce, the Under Secretary of Com-*
16 *merce for Oceans and Atmosphere, the Administrator, or*
17 *any other officer of the Administration, that is in effect im-*
18 *mediately before the date of enactment of this Act, shall con-*
19 *tinue in full force and effect after the effective date of this*
20 *Act until modified or rescinded. All suits, appeals, judg-*
21 *ments, and proceedings pending on such effective date relat-*
22 *ing to responsibilities or functions transferred pursuant to*
23 *this Act shall continue without regard to such transfers, ex-*
24 *cept for the transfer of responsibilities or functions. Any*
25 *reference in law to a responsibility, function, or office trans-*

1 *ferred pursuant to this Act shall be deemed to refer to the*
2 *responsibility, function, or office as so transferred. Nothing*
3 *in this Act shall be construed to limit the ability of an Ad-*
4 *ministration employee to discuss scientific research per-*
5 *formed by that employee. Nothing in this Act shall be con-*
6 *strued to alter the responsibilities or authorities of any*
7 *other Federal agency. Nothing in this Act shall be construed*
8 *to authorize or prohibit the transfer of any program, func-*
9 *tion, or project from other Federal agencies to the Adminis-*
10 *tration. Nothing in this Act shall be construed to expand,*
11 *modify, or supersede the authority that the Administration*
12 *has immediately before the date of enactment of this Act,*
13 *nor to provide the Administration with any new regulatory*
14 *authority. Nothing in this Act shall be construed to grant*
15 *the Administrator any authority to construct, alter, repair,*
16 *or acquire by any means a public building, as defined at*
17 *section 3301 of title 40, United States Code, or to grant*
18 *any authority to lease general purpose office or storage*
19 *space in any building; and nothing in this Act shall be con-*
20 *strued to diminish any authority the Administrator has im-*
21 *mediately before the date of enactment of this Act to con-*
22 *struct, alter, repair, or acquire by any means a public*
23 *building, as defined at section 3301 of title 40, United*
24 *States Code, or to diminish any authority the Adminis-*
25 *trator has immediately before the date of enactment of this*

1 *Act to lease general purpose office or storage space in any*
 2 *building (regardless of whether those authorities are derived*
 3 *from laws, executive orders, rules, regulations, or delega-*
 4 *tions of authority from the Secretary of Commerce).*

5 **SEC. 13. REORGANIZATION PLAN.**

6 (a) *SCHEDULE.*—(1) *Not later than 18 months after*
 7 *the date of enactment of this Act, the Administrator shall*
 8 *develop a reorganization plan for the Administration in ac-*
 9 *cordance with this section and shall publish the plan in*
 10 *the Federal Register. The Federal Register notice shall so-*
 11 *licit comments for a period of 60 days.*

12 (2) *Not later than 90 days after the expiration date*
 13 *of the comment period described in paragraph (1), the Ad-*
 14 *ministrator shall transmit to Congress a revised version of*
 15 *the plan that takes into account the comments received. The*
 16 *Administrator shall also publish the revised plan in the*
 17 *Federal Register. The Administrator shall transmit and*
 18 *publish, along with the plan, an explanation of how the*
 19 *Administrator dealt with each issue raised by the comments*
 20 *received.*

21 (3) *The Administrator shall implement the plan 60*
 22 *days after the plan has been transmitted to the Congress.*

23 (b) *CONTENT.*—*The plan, to the greatest extent prac-*
 24 *ticable, shall—*

1 (1) *consistent with section 5 and the other provi-*
 2 *sions of this Act, maximize the efficiency with which*
 3 *the Administration carries out the functions of—*

4 (A) *operations and services;*

5 (B) *research and education; and*

6 (C) *resource management;*

7 (2) *improve the sharing of research and other in-*
 8 *formation that is of use across programmatic themes;*
 9 *and*

10 (3) *eliminate duplication of effort or overlapping*
 11 *efforts among offices.*

12 (c) *CONSULTATION.—In developing the plan, the Ad-*
 13 *ministrator shall consult with interested parties, including*
 14 *the States, academia, industry, conservation organizations,*
 15 *and Administration employees.*

16 **SEC. 14. FACILITY EVALUATION PROCESS.**

17 (a) *PUBLIC NOTIFICATION AND ASSESSMENT PROC-*
 18 *ESS.—*

19 (1) *IN GENERAL.—The Administrator shall not*
 20 *close, consolidate, relocate, subdivide, or establish a*
 21 *facility of the Administration, unless and until the*
 22 *Administrator has followed the procedures required by*
 23 *this section.*

24 (2) *REVIEW PROCESS.—The Administrator shall*
 25 *not close, consolidate, relocate, subdivide, or establish*

1 *a facility of the Administration with an annual oper-*
2 *ating budget of \$5,000,000 or greater, or a National*
3 *Weather Service field office, unless and until—*

4 *(A) the Administrator has published in the*
5 *Federal Register the proposed action and a de-*
6 *scription of the offices, personnel, and activities*
7 *of the Administration that would be affected by*
8 *the proposed change, and has provided for a*
9 *minimum of 60 days for public comment;*

10 *(B) if the proposed change involves a*
11 *science facility of the Administration, the*
12 *Science Advisory Board has reviewed the pro-*
13 *posed change and provided to the Administrator*
14 *written findings regarding the proposed change;*

15 *(C) if the proposed change involves a Na-*
16 *tional Weather Service field office, the Adminis-*
17 *trator has prepared a report including—*

18 *(i) a description of local weather char-*
19 *acteristics and weather-related concerns*
20 *which affect the weather services provided*
21 *within the service area;*

22 *(ii) a detailed comparison of the serv-*
23 *ices provided within the service area and*
24 *the services to be provided after the pro-*
25 *posed change;*

1 (iii) a description of any recent or ex-
2 pected modernization of National Weather
3 Service operations which will enhance serv-
4 ices in the service area;

5 (iv) an identification of any area
6 within any State which would not receive
7 coverage (at an elevation of 10,000 feet) due
8 to the proposed change; and

9 (v) evidence, based on operational dem-
10 onstration of National Weather Service op-
11 erations, which was considered in reaching
12 the conclusion that no degradation in serv-
13 ice will result from the proposed change;

14 (D) the Administrator has prepared an
15 analysis of the anticipated costs and savings as-
16 sociated with the proposed facility change, in-
17 cluding both costs and savings in the first fiscal
18 year following the change, and changes in oper-
19 ations and maintenance costs and savings over a
20 ten-year period; and

21 (E) the Administrator has prepared an
22 analysis of the effects of the facility change on
23 operations and research of the Administration,
24 and the potential impacts on cooperative insti-
25 tutes, other external Administration partner-

1 *ships, partnerships with other Federal agencies,*
2 *and any State and local partnerships.*

3 (3) *NOTICE TO CONGRESS.—(A) The Adminis-*
4 *trator shall provide to Congress, at least 90 days be-*
5 *fore any closure, consolidation, relocation, subdivi-*
6 *sion, or establishment of a facility of the Administra-*
7 *tion with an annual budget of \$5,000,000 or greater,*
8 *or any National Weather Service field office, a sum-*
9 *mary of the public comments received pursuant to*
10 *paragraph (2)(A), any written findings prepared*
11 *under paragraph (2)(B), any report prepared under*
12 *paragraph (2)(C), and the analyses prepared under*
13 *paragraph (2)(D) and (E).*

14 *(B) The Administrator shall provide to Congress,*
15 *at least 90 days before any closure, consolidation, re-*
16 *location, subdivision, or establishment of a facility of*
17 *the Administration not described in subparagraph*
18 *(A), written notification of the planned closure, con-*
19 *solidation, relocation, subdivision, or establishment.*

20 (b) *WEATHER SERVICE MODERNIZATION.—Nothing in*
21 *this Act shall be construed to alter the Weather Service Mod-*
22 *ernization Act (15 U.S.C. 313 note).*

23 (c) *DEFINITION.—For purposes of this section—*

1 (1) *the term “facility” means a laboratory, oper-*
 2 *ations office, administrative service center, or other*
 3 *establishment of the Administration; and*

4 (2) *the term “field office” has the same meaning*
 5 *given that term in section 702 of the Weather Service*
 6 *Modernization Act.*

7 **SEC. 15. BUDGET REPROGRAMMING.**

8 *Whenever the Administrator transmits a budget re-*
 9 *programming request to the Appropriations Committees of*
 10 *the House of Representatives and the Senate, the Adminis-*
 11 *trator shall simultaneously submit a copy of the request to*
 12 *the Committee on Science and the Committee on Resources*
 13 *of the House of Representatives and the Committee on Com-*
 14 *merce, Science, and Transportation of the Senate.*

15 **SEC. 16. BASELINES AND COST CONTROLS.**

16 (a) *CONDITIONS FOR DEVELOPMENT.—*

17 (1) *IN GENERAL.—The Administration shall not*
 18 *enter into a contract for the development of a major*
 19 *program unless the Administrator determines that—*

20 (A) *the technical, cost, and schedule risks of*
 21 *the program are clearly identified and the pro-*
 22 *gram has developed a plan to manage those*
 23 *risks;*

1 (B) the technologies required for the pro-
2 gram have been demonstrated in a relevant lab-
3 oratory or test environment; and

4 (C) the program complies with all relevant
5 policies, regulations, and directives of the Ad-
6 ministration.

7 (2) *REPORT.*—The Administrator shall transmit
8 a report describing the basis for the determination re-
9 quired under paragraph (1) to the Committee on
10 Science of the House of Representatives and the Com-
11 mittee on Commerce, Science, and Transportation of
12 the Senate at least 30 days before entering into a con-
13 tract for development under a major program.

14 (3) *NONDELEGATION.*—The Administrator may
15 not delegate the determination requirement under this
16 subsection, except in cases in which the Administrator
17 has a conflict of interest.

18 (b) *MAJOR PROGRAM ANNUAL REPORTS.*—

19 (1) *REQUIREMENT.*—Annually, at the same time
20 as the President’s annual budget submission to the
21 Congress, the Administrator shall transmit to the
22 Committee on Science of the House of Representatives
23 and the Committee on Commerce, Science, and Trans-
24 portation of the Senate a report that includes the in-
25 formation required by this section for each major pro-

1 *gram for which the Administration proposes to ex-*
2 *pend funds in the subsequent fiscal year. Reports*
3 *under this paragraph shall be known as Major Pro-*
4 *gram Annual Reports.*

5 (2) *BASELINE REPORT.*—*The first Major Pro-*
6 *gram Annual Report for each major program shall*
7 *include a Baseline Report that shall, at a minimum,*
8 *include—*

9 (A) *the purposes of the program and key*
10 *technical characteristics necessary to fulfill those*
11 *purposes;*

12 (B) *an estimate of the life-cycle cost for the*
13 *program, with a detailed breakout of the develop-*
14 *ment cost, program reserves, and an estimate of*
15 *the annual costs until development is completed;*

16 (C) *the schedule for development, including*
17 *key program milestones;*

18 (D) *the plan for mitigating technical, cost,*
19 *and schedule risks identified in accordance with*
20 *subsection (a)(1)(A); and*

21 (E) *the name of the person responsible for*
22 *making notifications under subsection (c), who*
23 *shall be an individual whose primary responsi-*
24 *bility is overseeing the program.*

1 (3) *INFORMATION UPDATES.*—For major pro-
 2 grams for which a Baseline Report has been sub-
 3 mitted, each subsequent Major Program Annual Re-
 4 port shall describe any changes to the information
 5 that had been provided in the Baseline Report, and
 6 the reasons for those changes.

7 (c) *NOTIFICATION.*—

8 (1) *REQUIREMENT.*—The individual identified
 9 under subsection (b)(2)(E) shall immediately notify
 10 the Administrator any time that individual has rea-
 11 sonable cause to believe that, for the major program
 12 for which he or she is responsible—

13 (A) the development cost of the program is
 14 likely to exceed the estimate provided in the
 15 Baseline Report of the program by 15 percent or
 16 more; or

17 (B) a milestone of the program is likely to
 18 be delayed by 6 months or more from the date
 19 provided for it in the Baseline Report of the pro-
 20 gram.

21 (2) *REASONS.*—Not later than 30 days after the
 22 notification required under paragraph (1), the indi-
 23 vidual identified under subsection (b)(2)(E) shall
 24 transmit to the Administrator a written notification
 25 explaining the reasons for the change in the cost or

1 *milestone of the program for which notification was*
2 *provided under paragraph (1).*

3 (3) *NOTIFICATION OF CONGRESS.—Not later*
4 *than 15 days after the Administrator receives a writ-*
5 *ten notification under paragraph (2), the Adminis-*
6 *trator shall transmit the notification to the Com-*
7 *mittee on Science of the House of Representatives and*
8 *the Committee on Commerce, Science, and Transpor-*
9 *tation of the Senate.*

10 (d) *FIFTEEN PERCENT THRESHOLD.—Not later than*
11 *30 days after receiving a written notification under sub-*
12 *section (c)(2), the Administrator shall determine whether*
13 *the development cost of the program is likely to exceed the*
14 *estimate provided in the Baseline Report of the program*
15 *by 15 percent or more, or whether a milestone is likely to*
16 *be delayed by 6 months or more. If the determination is*
17 *affirmative, the Administrator shall—*

18 (1) *transmit to the Committee on Science of the*
19 *House of Representatives and the Committee on Com-*
20 *merce, Science, and Transportation of the Senate, not*
21 *later than 15 days after making the determination, a*
22 *report that includes—*

23 (A) *a description of the increase in cost or*
24 *delay in schedule and a detailed explanation for*
25 *the increase or delay;*

1 (B) a description of actions taken or pro-
2 posed to be taken in response to the cost increase
3 or delay; and

4 (C) a description of any impacts the cost
5 increase or schedule delay, or the actions de-
6 scribed under subparagraph (B), will have on
7 any other program within the Administration;
8 and

9 (2) if the Administrator intends to continue with
10 the program, promptly initiate an analysis of the
11 program, which shall include, at a minimum—

12 (A) the projected cost and schedule for com-
13 pleting the program if current requirements of
14 the program are not modified;

15 (B) the projected cost and the schedule for
16 completing the program after instituting the ac-
17 tions described under paragraph (1)(B); and

18 (C) a description of, and the projected cost
19 and schedule for, a broad range of alternatives to
20 the program.

21 The Administration shall complete an analysis initiated
22 under paragraph (2) not later than 6 months after the Ad-
23 ministrator makes a determination under this subsection.

24 The Administrator shall transmit the analysis to the Com-
25 mittee on Science of the House of Representatives and Com-

1 *mittee on Commerce, Science, and Transportation of the*
2 *Senate not later than 30 days after its completion.*

3 (e) *THIRTY PERCENT THRESHOLD.—If the Adminis-*
4 *trator determines under subsection (d) that the development*
5 *cost of a program will exceed the estimate provided in the*
6 *Baseline Report of the program by more than 30 percent,*
7 *then, beginning 18 months after the date the Administrator*
8 *transmits a report under subsection (d)(1), the Adminis-*
9 *trator shall not expend any additional funds on the pro-*
10 *gram, other than termination costs, unless the Congress has*
11 *subsequently authorized continuation of the program by*
12 *law. An appropriation for the specific program enacted sub-*
13 *sequent to a report being transmitted shall be considered*
14 *an authorization for purposes of this subsection. If the pro-*
15 *gram is continued, the Administrator shall submit a new*
16 *Baseline Report for the program no later than 90 days after*
17 *the date of enactment of the Act under which Congress has*
18 *authorized continuation of the program.*

19 (f) *DEFINITIONS.—For the purposes of this section—*

20 (1) *the term “development” means the phase of*
21 *a program following the formulation phase and begin-*
22 *ning with the approval to proceed to implementation.*

23 (2) *the term “development cost” means the total*
24 *of all costs, including construction of facilities and*
25 *civil servant costs, from the period beginning with the*

1 *approval to proceed to implementation through the*
 2 *achievement of operational readiness, without regard*
 3 *to funding source or management control, for the life*
 4 *of the program;*

5 *(3) the term “life-cycle cost” means the total of*
 6 *the direct, indirect, recurring, and nonrecurring costs,*
 7 *including the construction of facilities and civil serv-*
 8 *ant costs, and other related expenses incurred or esti-*
 9 *mated to be incurred in the design, development,*
 10 *verification, production, operation, maintenance, sup-*
 11 *port, and retirement of a program over its planned*
 12 *lifespan, without regard to funding source or manage-*
 13 *ment control; and*

14 *(4) the term “major program” means an activity*
 15 *approved to proceed to implementation that has an*
 16 *estimated life-cycle cost of more than \$250,000,000.*

17 **SEC. 17. LIMITATIONS ON OFF-SHORE PERFORMANCE OF**
 18 **CONTRACTS FOR THE PROCUREMENT OF**
 19 **GOODS AND SERVICES.**

20 *(a) CONVERSIONS TO CONTRACTOR PERFORMANCE OF*
 21 *ADMINISTRATION ACTIVITIES.—Except as provided in sub-*
 22 *section (c), an activity or function of the Administration*
 23 *that is converted to contractor performance under Office of*
 24 *Management and Budget Circular A-76 may not be per-*

1 *formed by the contractor or any subcontractor at a location*
2 *outside the United States.*

3 (b) *CONTRACTS FOR THE PROCUREMENT OF SERV-*
4 *ICES.—(1) Except as provided in subsection (c), a contract*
5 *for the procurement of goods or services that is entered into*
6 *by the Administrator may not be performed outside the*
7 *United States unless it is to meet a requirement of the Ad-*
8 *ministration for goods or services specifically at a location*
9 *outside the United States.*

10 (2) *The President may waive the prohibition in para-*
11 *graph (1) in the case of any contract for which the Presi-*
12 *dent determines in writing that it is necessary in the na-*
13 *tional security interests of the United States for goods or*
14 *services under the contract to be performed outside the*
15 *United States.*

16 (3) *The Administrator may waive the prohibition in*
17 *paragraph (1) in the case of any contract for which the*
18 *Administrator determines in writing that essential goods*
19 *or services under the contract are only available from a*
20 *source outside the United States.*

21 (c) *EXCEPTION.—Subsections (a) and (b)(1) shall not*
22 *apply to the extent that the activity or function under the*
23 *contract was previously performed by Federal Government*
24 *employees outside the United States.*

1 (d) *CONSISTENCY WITH INTERNATIONAL AGREE-*
 2 *MENTS.—The provisions of this section shall not apply to*
 3 *the extent that they are inconsistent with obligations of the*
 4 *United States under international agreements.*

5 **SEC. 18. RECORDKEEPING AND REPORTING REQUIREMENT.**

6 *The Administrator shall transmit to Congress, not*
 7 *later than 120 days after the end of each fiscal year begin-*
 8 *ning with the first fiscal year after the date of enactment*
 9 *of this Act, a report on the contracts and subcontracts per-*
 10 *formed overseas and the amount of purchases directly or*
 11 *indirectly by the Administration from foreign entities in*
 12 *that fiscal year. The report shall separately indicate—*

13 (1) *the contracts and subcontracts and their dol-*
 14 *lar values for which the Administrator determines*
 15 *that essential goods or services under the contract are*
 16 *available only from a source outside the United*
 17 *States; and*

18 (2) *the items and their dollar values for which*
 19 *the Buy American Act was waived pursuant to obli-*
 20 *gations of the United States under international*
 21 *agreements.*

Union Calendar No. 385

109TH CONGRESS
2^D Session

H. R. 5450

[Report No. 109-545, Part I]

A BILL

To provide for the National Oceanic and Atmospheric Administration, and for other purposes.

SEPTEMBER 11, 2006

Committee on Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed